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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,885	04/05/2004	Maurizio Pilu	1509-482	2672

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EXAMINER	
VANCHY JR, MICHAEL J	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
01/23/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/816,885	PILU, MAURIZIO	
	Examiner	Art Unit	
	MICHAEL VANCHY JR	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-18 and 26-32* is/are pending in the application.

4a) Of the above claim(s) *1-12,19-25 and 33-39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-18 and 26-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed October 14, 2008, with respect to the rejection(s) of claim(s) 13-18 and 26-32 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Nishizaka, JP2001313006 A.

Election/Restrictions

1. Applicant's election with traverse of claims 13-18 and 26-32 in the reply filed on 02/21/2008 is acknowledged. The traversal from the applicant is based on the ground(s) that all claims include the inhibiting or inhibitor feature. This is not found persuasive because the reasoning for restriction is based on the non-selected group "modifying" the image. In the elected group image modification does not occur. Therefore the restriction stands and made final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 13-18 and 26, 29, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishizaka, JP2001313006 A.

Regarding claim 13, Nishizaka teaches a portable inhibitor device for use by a user, comprising a transmitter of an inhibitor message for inhibiting an image capture device from processing a portion of said image corresponding to the user of said user portable inhibitor device ([0004], The Examiner takes into account that the portable inhibitor device in this case is the infrared light, which can inhibit a portion of an image ("photography from the direction-of-radiation (for example, hear and thorax)"). The infrared can also block out the entire image, which is still a "portion" of the image as well (a whole is part of a whole).).

Regarding claim 14, Nishizaka teaches said inhibitor device is arranged to transmit said inhibitor message directionally (Fig. 2).

Regarding claim 15, Nishizaka teaches said inhibitor device is arranged to transmit said inhibitor signal omni-directionally (Fig. 4).

Regarding claims 16 and 17, Nishizaka teaches a portable device that sends an infrared signal to inhibit a camera from capturing an image of a person who doesn't want their picture taken. This also applies to a visual signal, since infrared light can also be considered a visual signal ([0005]).

Regarding claim 26, Nishizaka teaches an inhibitor device arranged to be carried by an object for inhibiting processing of an image of said wearer; at least one image capture device, said image capture device including an image inhibitor component for inhibiting processing of portions of an image captured by said image capture device; and an encoder for encoding a portion of said image, said image portion corresponding to an image of said object ([0004-0005]).

Regarding claim 29, Nishizaka teaches an inhibitor device adapted to be mounted on an object for inhibiting processing of image data corresponding to said host wearer; and an image capture device comprising an image inhibitor component for restricting processing of image data corresponding to one or more objects within a captured scene image; said inhibitor device being arranged for sending at least one image of a host wearer of said inhibitor device to said image capture device, such that said image capture device can use said received image for recognizing an image portion corresponding to said object, within said captured scene image ([0004], The Examiner takes into account that the portable inhibitor device in this case is the infrared light, which can inhibit a portion of an image ("photography from the direction-of-radiation (for example, hear and thorax)"). The infrared can also block out the entire image, which is still a "portion" of the image as well (a whole is part of a whole). By allowing only a potion of the image to be blocked, such as just the thorax, the face can still be imaged and sent to the capture device. This also goes for blocking both the face and thorax, but allowing a portion of the image, or an object, to still be sent to the capture device, such as the background.).

Regarding claim 31, Nishizaka teaches an image capture device comprising: an optics system for forming an image on a detector; and an image inhibitor operable for receiving externally of said image capture device, an inhibit signal for inhibiting a portion of said captured image, and inhibiting viewing of the portion of the image accordingly ([0004], The Examiner takes into account that the portable inhibitor device in this case is the infrared light, which can inhibit a portion of an image ("photography from the direction-of-radiation (for example, hear and thorax)"). The infrared can also block out

the entire image, which is still a "portion" of the image as well (a whole is part of a whole).).

Regarding claim 32, Nishizaka teaches a portable inhibitor device, said inhibitor device being arranged for sending an inhibit message for inhibiting viewing of a portion of said captured image relating to a host wearer of said image capture device ([0004], The Examiner takes into account that the portable inhibitor device in this case is the infrared light, which can inhibit a portion of an image ("photography from the direction-of-radiation (for example, hear and thorax)"). The infrared can also block out the entire image, which is still a "portion" of the image as well (a whole is part of a whole).).

5. Claims 18, 27, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishizaka, JP2001313006 A, and further in view of Balogh, US 6,868,229 B2.

Regarding claims 27, 28, and 30, Nishizaka teaches inhibiting a camera from taking a picture using infrared light ([0004]), however Nishizaka does not explicitly teach allowing a trusted third party to be able to see a clear image of the image captured. Balogh teaches the ability to use infrared light to inhibit illicit recording of an event (Abstract), and allows for other radiation to be emitted based on the type of recorder with which one desires to interfere (Abstract). Thus, by using a certain radiation a third part would be allowed to receive an image that is decoded (clear), since it would not be inhibited. It would be clear to one of ordinary skill in the art to modify the portable inhibitor device in Nishizaka to allow for emitting different radiations, thus allowing a third party to be able to get a clear image, so that people whom the host wearer wants to have their image, is capable of doing so.

Regarding claim 18, Balogh teaches using different radiations (Abstract), as long as the other radiations are non-visible (col. 1 line 61 to col. 2, line 10). Since radio frequency signals are non-visible to the human eye, it would be an obvious design choice to use to inhibit certain recorders while allowing other recorders to still capture images, as is the intention of the invention (Abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VANCHY JR whose telephone number is (571)270-1193. The examiner can normally be reached on Monday - Friday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached on (571) 272-7413. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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